

PATENT

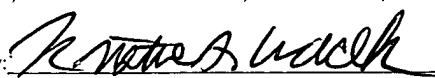
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: KNUDSON ET AL. Examiner: S. GILBERT  
Serial No.: 10/825,029 Group Art Unit: 3736  
Filed: APRIL 14, 2004 Docket No.: 13033.4USC4  
Title: METHOD AND APPARATUS TO TREAT CONDITIONS OF THE NASO-  
PHARYNGEAL AREA

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on December 22, 2005.

By:

  
Name: Kristine A. Wacek

**TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**23552**

PATENT TRADEMARK OFFICE

Dear Sir:

Petitioner, Restore Medical Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 2800 Patton Road, St. Paul, Minnesota 55113, represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/825,029, filed on April 14, 2004 and entitled METHOD AND APPARATUS TO TREAT CONDITIONS OF THE NASO-PHARYNGEAL AREA, by virtue of our Assignment recorded at Reel 011037, Frame 0901 and our Merger and Change of Name recorded at Reel 013706, Frame 0220.

Petitioner, Restore Medical Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent Nos. 6,742,524; 6,626,181; 6,601,585; and 6,431,174 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 6,742,524; 6,626,181;

6,601,585; and 6,431,174, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent Nos. 6,742,524; 6,626,181; 6,601,585; and 6,431,174, in the event that United States Patent Nos. 6,742,524; 6,626,181; 6,601,585; and 6,431,174 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

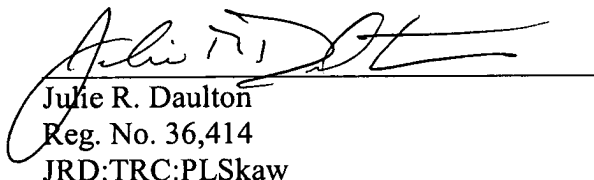
For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: 12-22-05

  
Julie R. Daulton  
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